(3)

final

IN THE HIGH COURT OF JUDICATURE AT BILASPUR, C.G.

WRIT PETITION NO. 2217 / 2003

PETITIONER : Roop Sai S/o Ameer Sai, aged about 55 years, caste Rajwar, R/o Village Beerpur, police station Jainagar, Tahsil Surajpur, Distt. Surguja (C.G.)

VERSUS

RESPONDENTS :

1) Ishwar S/o Surjan, aged about 50 years, caste Rajwar, R/o Village Beerpur, police station Jainagar, Tahsil Surajpur, Distt. Surguja (C.G.)

2) State of Chhattisgarh through Secretary, Revenue Department, D.K.S. Bhawan D.K. Bhawan, Raipur (C.G.)

P. R. No. 2056/03
Presented by Shri A.N. Pandey
dated 21/12/03

WRIT PETITION UNDER ARTICLE 226/227 OF THE CONSTITUTION OF INDIA

XI-HC-22

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर (25)

आदेश पत्रक

मामला क्रमांक W.P.2217/ सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश
	25.08.2003 Shri Ashok Kumar Shukla, counsel for the petitioner. Smt. Chitra Shrivastava, Panel Lawyer for the State/respondent No.2. By this petition under Article 226/227 of the Constitution of India, the petitioner seeks to challenge the order dated 11.06.2003 passed by the Board of Revenue, Chhattisgarh, in Revenue Revision No.1/A-19/02-03. The petitioner's case is that he had filed an application for settlement of lands bearing survey No.322/15 area 1.25 acre and survey No.219/48 area 0.37 acre in his name before Naib Tehsildar on the ground that the petitioner is in constant possession of the above mentioned lands and residing over there for a long time having constructed a house etc. The petitioner had prayed for providing Bhumi Swami Lease with regard to the above Government land but the Naib Tehsildar rejected the same on merits and an appeal was preferred by the petitioner before the Sub Divisional Officer, Surajpur. The S.D.O. also affirmed the order of the Naib Tehsildar. Therefore, against the order of the S.D.O., an appeal was preferred before the Commissioner, Bilaspur. The Commissioner instead of hearing the appeal on its merits rejected the same on the ground of limitation. Therefore, against the order of the Commissioner a	

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर (26)

आदेश पत्रक

मामला क्रमांक W.P.2217 सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित —2—	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

revision was preferred by the petitioner before the Board of Revenue. The Board of Revenue without hearing the counsel for the petitioner rejected the revision on merits on 11.06.2003 by the impugned order (Annexure P-1). Therefore, the Court may please to issue a writ/direction/order in the nature of writ of certiorari and mandamus to direct the concerned Revenue Authority to settle the above lands in the name of the petitioner quashing their orders including the order dated 11.06.2003.

I have heard the learned counsel for the petitioner and the learned Panel Lawyer for the State/respondent No.2.

Learned counsel for the petitioner submits that the land in question stands in the name of Government and one person namely, Ishwar has filed a civil suit before the civil Court for declaration of the title and injunction and in that suit, the petitioner herein is also a party. A perusal of the order of the Tehsildar dated 13.07.2000 reveals that a civil suit regarding the very land is pending and therefore, the settlement proceedings cannot be taken up and the land cannot be recorded in the name of the petitioner.

The civil suit is pending between the parties regarding the declaration of the title in which the Civil Court has to decide the title of the parties after recording the evidence and deciding the issues based on the evidence produced by the parties, since a civil suit is

[पीछे देखिये]

उच्च न्यायालय, छत्तीसगढ़, बिलासपुर (27)

आदेश पत्रक

मामला क्रमांक W.P.2217/ सन् 2003

विरुद्ध

आदेश का दिनांक आदेश क्रमांक सहित	आदेश हस्ताक्षर सहित -3-	कार्यालयीन मामलों में डिप्टी रजिस्ट्रार के अन्तिम आदेश

already pending regarding the land in question for declaration of the title and, moreover disputed facts are involved in this matter which can be decided only after recording the evidence for deciding the question as to who is entitled for declaration of the title.

In view of the above two grounds, this writ petition is not maintainable and the same is liable to be dismissed in limine.

The writ petition stands disposed of.

Consequently, M.(W.)P.No.2001/2003 and I.A.No.6801/2003 also stand disposed of.

Sd/-
L.C.BHADOO
Judge

Soma